

K. T. asks the Utah Labor Commission to review Administrative Law Judge La Jeunesse's denial of Mr. T.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Ann.).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12 and Utah Code Ann. §34A-2-801(3).

BACKGROUND AND ISSUES PRESENTED

Mr. T. has a history stretching back 20 years of injuries and degenerative disease affecting his neck and shoulders. Then, while working for CDK on July 30, 2000, he suffered a blow to his head and right shoulder, causing him to fall approximately 12 feet. Mr. T. felt pain in his right shoulder at the time of the accident, which pain continued thereafter. However, Mr. T. continued working until he was discharged by CDK on October 26, 2000. Mr. T. did not seek medical care until November 30, 2000.

On December 14, 2001, Mr. T. filed an application with the Commission to compel CDK to pay workers' compensation benefits for injuries allegedly caused by the work accident of July 30, 2000. On September 15, 2003, Judge La Jeunesse held an evidentiary hearing on Mr. T.'s claim. On March 4, 2004, Judge La Jeunesse issued his decision denying the claim on the grounds that Mr. T. had failed to establish a medical causal connection between his work accident and his neck and shoulder problems.

In challenging Judge La Jeunesse's decision, Mr. T. contends that the existing evidence establishes a causal relationship between his current problems and his accident at CDK. Alternatively, Mr. T. contends that new medical information justifies the Commission's exercise of its continuing jurisdiction to reopen Mr. T.'s claim.

DISCUSSION AND CONCLUSION OF LAW

As a preliminary matter, the Commission notes that the body of medical opinion in this matter shows an unusual degree of ambiguity. None of the physicians who have expressed an opinion appear to have dealt head-on with the question of whether Mr. T.'s work accident caused or aggravated his neck and shoulder problems. The water is further muddied by the confusing opinions of a nurse practitioner who has attended Mr. T. and by the fact that Mr. T. underwent surgery a few days before the hearing in this matter, but the results of that surgery have not been submitted into the record. Under these circumstances, this may be a case where an evaluation by an impartial medical panel would be helpful in reaching a just and medically sound decision.

It appears that Mr. T.'s primary argument is that the Commission should exercise continuing jurisdiction to reopen the evidentiary portion of this proceeding so that information obtained from Mr. T.'s most recent shoulder surgery can be considered by Judge La Jeunesse. In the first instance,

that question should be considered by Judge La Jeunesse, rather than the Commission. The Commission will therefore remand this matter to Judge La Jeunesse for that purpose, and for any additional action that Judge La Jeunesse finds appropriate to resolve Mr. T.'s claim.

ORDER

The Commission remands this matter to Judge La Jeunesse for further proceedings consistent with this decision. It is so ordered.

Dated this 23rd day of August, 2004.

R. Lee Ellertson, Commissioner